

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RODNEY SMITH,

Plaintiff,

Case No. 13-13327

Honorable Thomas L. Ludington

v.

BANK OF AMERICA/FLEET,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANT'S MOTION TO DISMISS, AND DISMISSING PLAINTIFF'S
COMPLAINT**

Rodney Smith's pro se complaint alleges various claims under the Consumer Credit Protection Act and the Fair Debt Collection Practices Act against the Bank of America/Fleet. On August 9, 2013, Bank of America filed a motion to dismiss. That motion, and Smith's underlying complaint, were referred to United States Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1).

On October 17, 2013, Judge Binder issued a report recommending that Bank of America's motion to dismiss be granted. Although Judge Binder's report explicitly stated that the parties to this action may object to and seek review of the recommendation within 14 days of service of the report, as of today's date, neither party has filed objections. The failure to object to Judge Binder's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Moreover, the failure to file objections to the report waives any further right to appeal. *See Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, it is **ORDERED** that the Judge Binder's report and recommendation, ECF No. 9, is **ADOPTED**.

It is further **ORDERED** that Bank of America's motion to dismiss, ECF No. 3, is **GRANTED**.

It is further **ORDERED** that Smith's complaint, ECF No. 1, is **DISMISSED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: November 5, 2013

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail, and upon Rodney Smith, P.O. Box 36, Black River, MI 48721 by first class U.S. mail, on November 5, 2013.

s/Tracy A. Jacobs
TRACY A. JACOBS